



Registration of a Charge

Company Name: **EAST MARSH UNITED LTD**

Company Number: **11034048**



Received for filing in Electronic Format on the: **18/10/2023**

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Details of Charge

Date of creation: **16/10/2023**

Charge code: **1103 4048 0002**

Persons entitled: **NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL**

Brief description: **171 RUTLAND STREET, GRIMSBY DN32 7NE**

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **JAMES WALSH**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11034048

Charge code: 1103 4048 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th October 2023 and created by EAST MARSH UNITED LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th October 2023 .

Given at Companies House, Cardiff on 23rd October 2023

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATED

16th October 2023

LEGAL MORTGAGE OVER 171 RUTLAND STREET, GRIMSBY DN32 7NE

between

East Marsh United Limited

and

North East Lincolnshire Borough Council

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This deed is dated 16th October 2023

Parties

- (1) East Marsh United Limited incorporated and registered in England and Wales with company number 11034048 whose registered office is at The Courtyard Freeman Street Market, Freeman Street, Grimsby, England, DN32 7DS (**Borrower**)
- (2) North East Lincolnshire Borough Council of Municipal Offices, Town Hall Square, Grimsby, DN31 1HU (**the Council**)

BACKGROUND

- (A) The Council has agreed, to provide the Borrower with a loan of £15,000 on a secured basis.
- (B) The Borrower owns the Property.
- (C) Under this deed, the Borrower provides security to the Council for the loan.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

The following definitions apply in this deed:

- 1 Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- 2 Certificate of Title:** any report on or certificate of title relating to the Property supplied to the Council by the Borrower (or on its behalf).
- 3 Delegate:** any person appointed by the Council or any Receiver under clause 14 and any person appointed as attorney of the Council, Receiver or Delegate.
- 4 Environment:** the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
- 5 Environmental Law:** all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.

- 6 **Environmental Licence:** any authorisation, permit or licence necessary under Environmental Law in respect of the Property.
- 7 **Event of Default:** means either;
- 7a) the Property ceasing to be used to house vulnerable people on low incomes by the Borrower at any time during the security period;
 - 7b) the Property is sold, conveyed or transferred within 5 years from the date of this deed; or
 - 7c) The Property is not occupied as a dwelling by a vulnerable person within 6 months of the date of this deed.
- 8 **Insurance Policy:** each contract and policy of insurance effected or maintained by the Borrower from time to time relating to the Property.
- 9 **LPA 1925:** the Law of Property Act 1925.
- 10 **Property:** the freehold owned by the Borrower described in Schedule 1.
- 11 **Receiver:** a receiver or receiver and manager appointed by the Council under clause 12.
- 12 **Secured Liabilities:** the amount of £15,000 (fifteen thousand pound) together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.
- 13 **Security:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.
- 14 **Security Period:** the period starting on the date of this deed and ending 5 years the date of this deed.
- 15 **Valuation:** any valuation relating to the Property supplied to the Council by the Borrower (or on its behalf).
- 16 **VAT:** value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 Interpretation

In this deed:

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;

- (e) a reference to the Council or the Borrower party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) a reference to **writing** or **written** excludes fax and email;
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (j) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (k) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed;
- (l) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (m) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- (n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (p) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- (q) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Clawback

If the Council considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

1.4 Nature of security over real property

A reference in this deed to a **charge or mortgage of or over the Property** includes:

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time;
- (b) the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property;
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of the Property, and any monies paid or payable in respect of those covenants; and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

1.5 Perpetuity period

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

1.6 Schedules

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

2. Covenant to pay

The Borrower shall, on demand, pay to the Council and discharge the Secured Liabilities following an Event of Default or in the event that Secured Liabilities are spent on anything other than the Property.

3. Grant of security

3.1 Legal mortgage and fixed charges

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Council by way of a first legal mortgage the Property however the Council will not object to the raising by the Borrower of further funds by way of charge or mortgage to be secured against the Property and in the event that any such chargee or mortgagee requires its charge or mortgage to be a first or prior charge the Council will enter into a deed of postponement with the new chargee or mortgagee to postpone the Council's charge behind the new charge or mortgage and will also provide the necessary consent to comply with the restriction referred to in 4.1.

4. Perfection of security

4.1 Registration of legal mortgage at the Land Registry

The Borrower consents to an application being made by the Council to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of North East Lincolnshire Borough Council referred to in the charges register or their conveyancer."

4.2 Cautions against first registration and notices

Whether or not title to the Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Borrower's title to the Property, the Borrower shall immediately provide the Council with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Borrower shall immediately, and at its own expense, take such steps as the Council may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5. Liability of the Borrower

5.1 Liability not discharged

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Council that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Council renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this clause 5.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

5.2 Immediate recourse

The Borrower waives any right it may have to require the Council to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

6. Representations and warranties

6.1 Times for making representations and warranties

The Borrower makes the representations and warranties set out in this clause 6 to the Council on the date of this deed.

6.2 Ownership of Property

The Borrower is the sole legal and beneficial owner of the Property and has good, valid and marketable title to the Property.

6.3 No Security

The Property is free from any Security other the Security created by this deed.

6.4 No adverse claims

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Property or any interest in them.

6.5 No adverse covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever that materially and adversely affect the Property.

6.6 No breach of laws

There is no breach of any law or regulation that materially and adversely affects the Property.

6.7 No interference in enjoyment

No facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use.

6.8 No overriding interests

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in the Property.

6.9 No prohibitions or breaches

There is no prohibition on the Borrower assigning its rights in any of the Property and the entry into of this deed by the Borrower does not, and will not, constitute a breach of any policy, agreement, document, instrument or obligation binding on the Borrower or its assets.

6.10 Environmental compliance

The Borrower has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

6.11 Information for Valuations and Certificates of Title

- (a) All written information supplied by the Borrower or on its behalf for the purpose of each Valuation and Certificate of Title was true and accurate in all material respects at its date or at the date (if any) on which it was stated to be given.

- (b) The ³information referred to in clause 6.11(a) was, at its date or at the date (if any) on which it was stated to be given, complete and the Borrower did not omit to supply any information that, if disclosed, would adversely affect the Valuation or Certificate of Title.
- (c) In the case of the first Valuation and Certificate of Title only, nothing has occurred since the date the information referred to in clause 6.11(a) was supplied and the date of this deed that would adversely affect such Valuation or Certificate of Title.

6.12 Avoidance of security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

6.13 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower and is, and will continue to be, effective security over all and every part of the Property in accordance with its terms.

7. General covenants

7.1 Negative pledge and disposal restrictions

The Borrower shall not at any time, except with the prior written consent of the Council sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Property.

7.2 Preservation of the Property

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Council or materially diminish the value of the Property or the effectiveness of the security created by this deed.

7.3 Compliance with laws and regulations

- (a) The Borrower shall not, without the Council's prior written consent, use or permit the Property to be used in any way contrary to law.
- (b) The Borrower shall:
 - (i) comply with the requirements of any law or regulation relating to or affecting the Property or the use of it or any part of it; and
 - (ii) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Property.

7.4 Notice of misrepresentation and breach

The Borrower shall, promptly on becoming aware of any of the same, notify the Council in writing of:

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

8. Property covenants

8.1 Repair and maintenance

- (a) The Borrower shall keep all premises, and fixtures and fittings on the Property, in:
 - (i) good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings that have become worn out or otherwise unfit for use with others of a like nature and equal value; and
 - (ii) such repair and condition as to enable the Property to be let in accordance with all applicable laws and regulations.

8.2 No alterations

- (a) The Borrower shall not, without the prior written consent of the Council:
 - (i) pull down or remove the whole or any part of any building forming part of the Property nor permit the same to occur; or
 - (ii) make or permit to be made any material alterations to the Property.
- (b) The Borrower shall promptly give notice to the Council if the premises forming part of the Property are destroyed or damaged.

8.3 Development restrictions

The Borrower shall not, without the prior written consent of the Council:

- (a) make or, in so far as it is able, permit others to make any application for planning permission or development consent in respect of the Property; or
- (b) carry out, or permit or suffer to be carried out, on the Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit, or suffer to be changed, the use of the Property.

8.4 Insurance

- (a) The Borrower shall insure and keep insured the Property against:
 - (i) loss or damage by fire or terrorist acts, including any third-party liability arising from such acts;
 - (ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and

- (iii) any other risk, perils and contingencies as the Council may reasonably require.
- (b) Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Council and must include property owners' public liability and third party liability insurance and be for not less than the total cost of entirely rebuilding, reinstating or replacing the Property in the event of it being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for shoring or propping up, demolition, site clearance and reinstatement with adequate allowance for inflation) and loss of rents payable by the tenants or other occupiers of the Property for a period of at least three years, including provision for increases in rent during the period of insurance.
- (c) The Borrower shall, if requested by the Council, produce to the Council each policy, certificate or cover note relating to any insurance required by clause 8.4(a) (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).
- (d) The Borrower shall, if requested by the Council, procure that a note of the Council's interest is endorsed on each Insurance Policy (other than public liability and third party liability insurances) effected or maintained by it or any person on its behalf in accordance with clause 8.4(a) but without the Council having any liability for any premium in relation to those Insurance Policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy.

8.5 Insurance premiums

The Borrower shall:

- (a) promptly pay all premiums in respect of each Insurance Policy required by clause 8.4(a) and do all other things necessary to keep that policy in full force and effect; and
- (b) (if the Council so requires) give to the Council copies of the receipts for all premiums and other payments necessary for effecting and keeping up each Insurance Policy required by clause 8.4(a) (or where, in the case of leasehold property, insurance is effected by the landlord, such evidence of the payment of premiums as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).

8.6 No invalidation of insurance

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any Insurance Policy required by clause 8.4(a).

8.7 Proceeds from Insurance Policies

All monies payable under any Insurance Policy required by clause 8.4(a) shall (whether or not the security constituted by this deed has become enforceable) be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or, after the security constituted by this deed has become enforceable and, if the Council so directs, in or towards discharge or reduction of the Secured Liabilities.

8.8 No restrictive obligations

The Borrower shall not, without the prior written consent of the Council, enter into any onerous or restrictive obligations affecting the whole or any part of the Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of the Property.

8.9 Compliance with and enforcement of covenants

The Borrower shall:

- (a) observe and perform all covenants, stipulations and conditions to which the Property, or the use of it, is or may be subject and (if the Council so requires) produce to the Council evidence sufficient to satisfy the Council that those covenants, stipulations and conditions have been observed and performed; and
- (b) diligently enforce all covenants, stipulations and conditions benefiting the Property and shall not (and shall not agree to) waive, release or vary any of the same.

9. Powers of the Council

9.1 Power to remedy

- (a) The Council shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.
- (b) The Borrower irrevocably authorises the Council and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Council in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Council on a full indemnity basis and shall carry interest in accordance with clause 16.1.
- (d) In remedying any breach in accordance with this clause 9.1, the Council, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Council may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

9.2 Exercise of rights

The rights of the Council under clause 9.1 are without prejudice to any other rights of the Council under this deed. The exercise of any rights of the Council under this deed shall not make the Council liable to account as a mortgagee in possession.

9.3 Council has Receiver's powers

16th October 2023

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Council in relation to the Property whether or not it has taken possession of the Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

10. When security becomes enforceable

10.1 Security becomes enforceable on Event of Default

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

10.2 Discretion

After the security constituted by this deed has become enforceable, the Council may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of the Property.

11. Enforcement of security

11.1 Enforcement powers

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
- (b) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 10.1.
- (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

11.2 Extension of statutory powers of leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Council and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to:

- (a) grant a lease or agreement for lease;
- (b) accept surrenders of leases; or
- (c) grant any option in respect of the whole or any part of the Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant

on a surrender^{16th}, as the Council or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.
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11.3 Protection of third parties

No purchaser, mortgagee or other person dealing with the Council, any Receiver or any Delegate shall be concerned to enquire:

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (b) whether any power the Council, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
- (c) how any money paid to the Council, any Receiver or any Delegate is to be applied.

11.4 Privileges

Each Receiver and the Council is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

11.5 No liability as mortgagee in possession

Neither the Council nor any Receiver or Delegate shall be liable, by reason of entering into possession of the Property or for any other reason, to account as mortgagee in possession in respect of the Property, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

11.6 Relinquishing possession

If the Council, any Receiver or Delegate enters into or takes possession of the Property, it or he/she may at any time relinquish possession.

11.7 Conclusive discharge to purchasers

The receipt of the Council, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of the Property or in making any acquisition in the exercise of their respective powers, the Council, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

12. Receivers

12.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Council may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of the Property.

12.2 Removal

The Council may, without further notice, from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

12.3 Remuneration

The Council may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925 and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

12.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Council under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

12.5 Agent of the Borrower

Any Receiver appointed by the Council under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Council.

13. Powers of Receiver

13.1 Powers additional to statutory powers

- (a) Any Receiver appointed by the Council under this deed shall, in addition to the rights, powers and discretions conferred on him/her by statute, have the rights, powers and discretions set out in clause 13.2 to clause 13.20.
- (b) A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether he/she is an administrative receiver or not.
- (c) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (d) Any exercise by a Receiver of any of the powers given by clause 13 may be on behalf of the Borrower, the directors of the Borrower or himself/herself.

13.2 Repair and develop the Property

A Receiver may undertake or complete any works of repair, alteration, building or development on the Property and may apply for and maintain any planning permission,

development²³ consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

13.3 Grant or accept surrenders of leases

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting the Property on any terms, and subject to any conditions, that he/she thinks fit.

13.4 Employ personnel and advisers

(a) A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he/she thinks fit.

(b) A Receiver may discharge any such person or any such person appointed by the Borrower.

13.5 Make and revoke VAT options to tax

A Receiver may make, exercise or revoke any VAT option to tax as he/she thinks fit.

13.6 Charge for remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him/her) that the Council may prescribe or agree with him/her.

13.7 Take possession

A Receiver may take immediate possession of the Property.

13.8 Manage or reconstruct the Borrower's business

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower carried out at the Property.

13.9 Dispose of Property

A Receiver may grant options and licences over all or any part of the Property, grant any other interest or right over, sell, exchange, assign or lease (or concur in granting options and licences over all or any part of the Property, granting any other interest or right over, selling, exchanging, assigning or leasing) the Property in respect of which he/she is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he/she thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Property to be disposed of by him/her.

13.10 Sever fixtures and fittings

A Receiver may sever and sell separately any fixtures or fittings from the Property without the consent of the Borrower.

13.11 Give valid receipts

A Receiver may^{16th} give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising the Property.

13.12 Make settlements

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Borrower or relating in any way to the Property.

13.13 Bring legal action

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to the Property as he/she thinks fit.

13.14 Insure

A Receiver may, if he/she thinks fit, but without prejudice to the indemnity in clause 16.2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed.

13.15 Form subsidiaries

A Receiver may form a subsidiary of the Borrower and transfer to that subsidiary the Property.

13.16 Borrow

A Receiver may, for whatever purpose he/she thinks fit, raise and borrow money either unsecured or on the security of the Property in respect of which he/she is appointed on any terms that he/she thinks fit (including, if the Council consents, terms under which that security ranks in priority to this deed).

13.17 Redeem prior Security

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

13.18 Delegation

A Receiver may delegate his/her powers in accordance with this deed.

13.19 Absolute beneficial owner

A Receiver may, in relation the Property, exercise all powers, authorisations and rights he/she would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do in the ownership and management of all or any part of the Property.

13.20 Incidental powers

A Receiver may do any other acts and things that he/she:

- (a) may consider desirable or necessary for realising the Property;
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) lawfully may or can do as agent for the Borrower.

14. Delegation

14.1 Delegation

The Council or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it or him/her by this deed (including the power of attorney granted under clause 18.1).

14.2 Terms

The Council and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it or he/she thinks fit.

14.3 Liability

Neither the Council nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

15. Application of proceeds

15.1 Order of application of proceeds

All monies received or recovered by the Council, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Council's right to recover any shortfall from the Borrower):

- (a) in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Council (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed and of all remuneration due to any Receiver under or in connection with this deed;
- (b) in or towards payment of the Secured Liabilities in any order and manner that the Council determines; and
- (c) in payment of the surplus (if any) to the Borrower or other person entitled to it.

15.2 Appropriation

Neither the Council, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

15.3 Suspense account

All monies received by the Council, a Receiver or a Delegate under this deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):

- (a) may, at the discretion of the Council, Receiver or Delegate, be credited to a suspense account;
- (b) shall bear interest, if any, at the rate agreed in writing between the Council and the Borrower; and
- (c) may be held in that account for so long as the Council, Receiver or Delegate thinks fit.

16. Costs and indemnity

16.1 Costs

The Borrower shall, within five Business Days of demand, pay to, or reimburse, the Council and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Council, any Receiver or any Delegate in connection with:

- (a) this deed or the Property;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Council's, a Receiver's or a Delegate's rights under this deed; or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of the Borrower) at the rate of 4% above the base rate of Barclays Bank Plc.

16.2 Indemnity

- (a) The Borrower shall indemnify the Council, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (i) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Property;
 - (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
 - (iii) any default or delay by the Borrower in performing any of its obligations under this deed.
- (b) Any past or present employee or agent may enforce the terms of this clause 16.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

17. Further assurance

17.1 Further assurance

The Borrower shall promptly, at its own expense, take whatever action the Council or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security created or intended to be created by this deed;

; or

- (b) facilitating the exercise of any right, power, authority or discretion exercisable by the Council or any Receiver in respect of the Property,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of the Property and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Council may consider necessary or desirable.

18. Power of attorney

18.1 Appointment of attorneys

By way of security, the Borrower irrevocably appoints the Council, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) the Borrower is required to execute and do under this deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Council, any Receiver or any Delegate.

18.2 Ratification of acts of attorneys

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 18.1.

19. Release

19.1 Release

Subject to clause 25.2, at the end of the Security Period, and provided always that there have been no Events of Default, the Council shall, at the request and cost of the Borrower, take whatever action is necessary to

- (a) release the Property from the security constituted by this deed.

20. Assignment and transfer

20.1 Assignment by Council

- (a) At any time, without the consent of the Borrower, the Council may assign or transfer any or all of its rights and obligations under this deed.
- (b) The Council may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Property and this deed that the Council considers appropriate.

20.2 Assignment by Borrower

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

21. Set-off

21.1 Exclusion of Borrower's right of set-off

All payments made by the Borrower to the Council under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

22. Amendments, waivers and consents

22.1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

22.2 Waivers and consents

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

- (b) A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Council shall be effective unless it is in writing.

22.3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

23. Severance

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

24. Third party rights

24.1 Third party rights

- (a) Except as expressly provided elsewhere in this deed, a person who is not the Council or the Borrower shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

25. Further provisions

25.1 Continuing security

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Council discharges this deed in writing.

25.2 Discharge conditional

Any release, discharge or settlement between the Borrower and the Council shall be deemed conditional on no payment or security received by the Council in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Council or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Property, for any period that the Council deems necessary to provide the Council with security against any such avoidance, reduction or order for refund; and
- (b) the Council may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

25.3 Certificates

A certificate or determination by the Council as to any amount for the time being due to it from the Borrower under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due.

25.4 Consolidation

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

26. Notices

26.1 Delivery

Any notice or other communication given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and
- (c) sent to:
 - (i) the Borrower at:
 The Courtyard Freeman Street Market, Freeman Street, Grimsby,
 England, DN32 7DS
 Fax: [NUMBER]
 Attention: [NAME]
 - (ii) the Council at:
 Municipal Offices Town Hall Square, Grimsby, DN31 1HU
 Attention: Chief Legal and Monitoring Officer

or to any other address or fax number as is notified in writing by one party to the other from time to time.

26.2 Receipt by Borrower

Any notice or other communication that the Council gives to the Borrower shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address; or
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting

A notice or other communication given as described in clause 26.2(a) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

26.3 Receipt by Council

Any notice or other communication given to the Council shall be deemed to have been received only on actual receipt.

26.4 Service of proceedings

This clause 26 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26.5 No notice by email

A notice or other communication given under or in connection with this deed is not valid if sent by email.

27. Governing law and jurisdiction

27.1 Governing law

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

27.2 Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Council to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

27.3 Other service

The Borrower irrevocably consents to any process in any legal action or proceedings under clause 27.2 being served on it in accordance with the provisions of this deed

relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

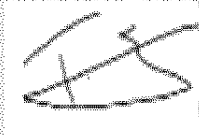
Schedule 1 **Property**

171 Rutland Street, Grimsby DN32 7NE registered at HM Land Registry under title number HS292117.

Executed as a deed by affixing the common seal of
NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL
In the presence of

Authorised Signatory

Executed as deed by East Marsh United Limited acting by,
a director, in the presence of:



... Terry Evans.....
Director

...PJGraves.....

Signature of Witness

Name of Witness: Paula Graves

Address: The Courtyard, Freeman Street Market, Freeman
Street, Grimsby, DN32 7DS

Occupation: Community-Led Housing Manager